IN THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

BRENDA TOLBERT	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. 4:11-CV-00107
	§	
RBC CAPITAL MARKETS	§	
CORPORATION N/K/A RBC CAPITAL	§	
MARKETS, LLC; RBC CENTURA	§	
BANK N/K/A RBC BANK (USA);	§	
RBC U. S. INSURANCE SERVICES, INC.	§	
	§	
Defendants.	§	

MOTION TO JOIN PARTIES PLAINTIFF

Plaintiff, Brenda Tolbert, together with Joseph Rice Neuhaus, Jr. ("Neuhaus") and Lawrence Gift, Jr. ("Gift"), file this Motion to Join Parties Plaintiff, pursuant to Fed. R. Civ. P. 20(a)(1), and respectfully request that this Court join Neuhaus and Gift as parties plaintiff in this case.

I.

Neuhaus and Gift are participants in the Amended and Restated US Wealth Accumulation Plan (the "WAP"), and in 2011, on their own accord, left the employ of RBC Wealth Management, a division of and/or assumed name of RBC Capital Markets Corporation ("RBC"), one of the named Defendants herein.

II.

As a precaution and under protest, Neuhaus and Gift submitted claims to the WAP Committee. *See*, Plaintiff's Response to Defendants' Motion for Summary Judgment and Reply

in Support of its Motion for Partial Summary Judgment [Dkt. # 93] at pp. 48-52, n. 20 and

Plaintiff's Supp. Exh. 36. The nature of their claims are statutory, and neither the WAP, nor the

WAP Committee can provide the relief requested by them in this lawsuit. Accordingly,

compliance with the WAP's administrative claims procedure is unnecessary, fruitless, or has

been satisfied, excused or otherwise waived by RBC. See, Exhibit "A" attached hereto.

III.

Pursuant to Fed. R. Civ. P. 10(c), Neuhaus and Gift, as joined, incorporate by reference

all motions, pleadings (including, but not limited to, Plaintiff's First Amended Class Action

Complaint (filed April 7, 2011) [Dkt. #24]), and arguments made by Plaintiff Brenda Tolbert in

this case.

IV.

For the reasons discussed above, Plaintiff Brenda Tolbert, together with Neuhaus and

Gift, request that this Court grant this Motion to Join Parties Plaintiff, and for such other and

further relief, both at law and in equity, general or special, to which they show themselves to be

entitled.

Respectfully submitted,

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ATTORNEYS FOR BRENDA TOLBERT, JOSEPH RICE NEUHAUS, JR. AND LAWRENCE GIFT, JR.

CERTIFICATE OF CONFERENCE

The undersigned counsel has previously conferred with opposing counsel, Sari M. Alamuddin, concerning the relief sought in this Motion, and was advised that Defendants oppose the same.

<u>/s/ Geoffrey H. Bracken</u> Geoffrey H. Bracken

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this documents was served on Defendants' counsel *via* the Court's electronic filing system this 7th day of March, 2012.

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/s/ Geoffrey H. Bracken

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